

Person to Contact: [REDACTED]  
 Telephone Number: [REDACTED]  
 Refer Reply to: Internal Revenue  
 Service  
 [REDACTED]

*Corrected R.F. 7/30/87*

Date: OCT 06 1987

Dear Applicant:

We have considered your application for recognition of exemption from Federal Income Tax under Section 501(c)(3) of the Internal Revenue Code of 1954.

The information submitted discloses that you were incorporated on [REDACTED] under the nonprofit corporation laws of the State of [REDACTED].

The purpose of your organization as stated in your Articles of Incorporation is "exclusively for scholarship, education, art, research and the restoration of cultural history within the meaning of Section 501(c)(3)."

According to your Form 1923 originally submitted in [REDACTED] you indicated you had two main objectives: first, to develop a free tutorial program for "disadvantaged/gifted students" and secondly, to award scholarships to needy college youth between the ages of 16-25 years old to attend the college of their choice.

You originally stated that students eligible for scholarships will be referred by their high school counselors or other community organizations with the scholarship benefit not to exceed \$[REDACTED] per recipient. Your selection committee consists of the three officers of your organization. None of the relatives of the selection committee nor the officers themselves are eligible for scholarship awards.

Code	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
Surname							
Date							

[REDACTED]

Your projected budget submitted at the time you filed Form 1023 indicated that for years [REDACTED], [REDACTED], and [REDACTED], you expected all of your revenues to come from donations. Your expenditures were projected as being insurance, utilities, rent, postage and the scholarship fund. Insurance, utilities, rent and postage constituted [REDACTED] % of your total projected expenses.

Correspondence was sent to your organization on [REDACTED] requesting considerable additional information on your operations:

1. With regard to your tutorial program, you were asked when it was or will be initiated.
2. You were asked how, where and by whom the program will be initiated.
3. You were asked whether there were to be any fees or charges, what their amount would be and the basis for the charges.
4. You were asked to submit copies of any brochures, newsletters or newspaper clippings which describe your organization.
5. You were asked to submit a copy of your rental lease since you listed rent as a major fixed projected expense.
6. You were asked to submit a list of all proposed employees including their name, position, duties, qualifications, hours devoted to the position, weekly and amount of compensation.
7. You were asked for a copy of the community block grant proposal which you were seeking.
8. You were asked for a copy of your scholarship application.
9. You were asked to provide specific criteria for your selection of recipients of scholarships.
10. Since almost half of your projected expenses will be for rent, utilities, insurance, you were asked about the nature of the property you're renting, the use to which it will be put and what the nature of the insurance costs are.

Your response to these questions was sent to us in correspondence received [REDACTED] and addressed these concerns as follows:

1. You do not presently operate a tutorial program.
2. You stated you would like to assign one teacher to approximately 20 children. They would meet twice a week, 3 hours each time. You state that a tentative timetable might be 4-7 p.m. Mondays and Wednesdays. You state you would have three teachers and you hope to utilize [REDACTED]

██████████ as classrooms. Otherwise you would use your registered office for the classroom activities. The three teachers who would teach are the three officers of your organization.

3. You do not plan to charge any fees.
4. You do not have any brochures, pamphlets, newspaper articles which describe your organization.
5. You had no written rental lease but a verbal agreement.
6. You were asked about proposed employees - the three officers will be the employees - two of the three employees will be paid \$██████ per hour to tackle tutoring duties. You do not mention in this correspondence what the third officer, ██████████, will earn per hour.
7. You stated that you had not applied for any community block grants nor submitted any grant proposals to private foundations.
8. You sent an extremely sketchy scholarship application which was somewhat confusing in format as it didn't make it clear who was to fill it out -- the student or the high school counselor. You asked for the name, address, age, telephone number of the applicant. You asked for their grade point average and either their S.A.T. or A.C.T. scores. You asked the student to submit an essay as to why they should be selected as a scholarship recipient and for comments from the high school counselor. Other information that would appear to be essential to making a determination of who would be the recipient was not on the "application" such as the high school the student is attending, proof of the grade point average and the S.A.T. or A.C.T. scores, parents' income level and other financial data necessary to determine need as well as merit.
9. Specific criteria for selection of recipients is that the parents' income level must not exceed \$██████ per year. You do state that grade point average will be weighed along with personal recommendations but you never state what the grade point average must be.
10. You state that we should "see enclosure" in response to the question asked regarding your projected expenditures of rent, insurance and utilities. However, there was no enclosure.

Because the correspondence received from your organization still left some important questions unanswered, additional information was requested from you in our correspondence dated ██████████.

██████████. The following areas of concern were addressed:

1. Since your tutorial program is not operational, when do you expect to begin the program? You mentioned possibly using your "registered office" for the program. You were asked if this was not also your personal residence.
2. You were asked again about the rent - both as to the amount being paid and how the facility is being used to further a charitable purpose. You were informed that no enclosure was sent with the previous correspondence regarding the projected expenses of rent, insurance, utilities.
3. You were asked questions regarding your scholarship application: who was to fill out the application, who will provide you with verification of the grade point average, whether you will get a transcript of students' grades and how the income level will be determined since it is not questioned on the application.
4. You were again asked what the minimum grade point average would be.
5. You were asked what provisions you had made for verification of S.A.T. or A.C.T. scores.
6. Because you never stated what [REDACTED], an officer and proposed salaried employee would earn, you were asked this question again.

You responded to these additional questions on [REDACTED] in the following manner:

1. You now state you are leasing the basement of the building in which you live. You will start the tutorial program after you get a private source to underwrite the program. You feel that you must first get exemption under Section 501(c)(3).
2. You have provided a written lease which indicates that you are renting the basement at \$[REDACTED] per month. The nature of the actual facility is not known. You did state verbally that you are renting the facility from your parents who own the building.
3. You state you need the area as a place to "hold the tutorials" and "as a place to formulate plans for the development of this foundation". Utilities are now included in the rent. You still have not explained the anticipated insurance cost of \$[REDACTED] per year.
4. You state that the applicant can fill out the application or someone else can complete it for him. You state that you

will verify the grade point average with the high school after you receive a completed application. You state you will also seek financial data on the income level of the parents after the application is received.

5. The minimum grade point average is "C".
6. The S.A.T. or A.C.T. scores will be requested from the high school.
7. You state that [REDACTED] "would like to be employed as a consultant to this "Foundation" to be paid at a rate of \$ [REDACTED] per hour for all consultant work that might be contracted to me".

With regard to your correspondence of [REDACTED] there were again two areas that caused concern. Because you are renting a facility from your parents at a rate of \$ [REDACTED] per month in the same building where you also live, you were asked in our correspondence dated [REDACTED] to provide an independent third party appraisal of the fair rental value of the facility. You were also asked to provide a photograph of the facility you will be using for tutorial purposes. Secondly, because it was indicated that one of your officers, [REDACTED], expected to command an average hourly salary over four times greater than the other two teachers, you were asked to reassess your compensation in light of what the other two officers are getting for what appears to be substantially the same job duties and responsibilities.

In response to these two areas of concern, [REDACTED] provided the following information in his letter of [REDACTED]

The tutorial program does not yet exist. The organization cannot afford a third party appraisal of the rent nor can you afford to rent a separate facility now. [REDACTED] stated that "when and if the tutorial program is ever started my guess is that it will have to start in my home."

He also stated "even though I will be writing computer programs to assist students to learn their school work you don't see why I should make more, U.S. pay me the same as them \$ [REDACTED] an hour as a teacher". The fact is that the writing of computer programs by Dr. [REDACTED] was never before mentioned in previous correspondence or in the Form 1023 application.

Section 501(c)(3) of the Code provides for the exemption from Federal Income Tax of corporations organized and operated exclusively for religious, charitable, literary, scientific, and educational purposes; no part of the net earnings of which inures to any private shareholder or individual.

Section 1.501(c)(3)-1 of the Tax Regulations relates to the definition of the organization and operation of organizations described in Section 501(c)(3). It is quoted, in part, as follows:

"(a) Organizational and operational tests. (1) In order to be exempt as an organization described in Section 501(c)(3), an organization must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organizational test or the operational test, it is not exempt. (2) The term "exempt purpose or purposes", as used in this section, means any purpose or purposes specified in Section 501(c)(3)...."

"(b) Operational test. (1) Primary activities. An organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in Section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose. (2) Distribution of earnings. An organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals..."

Section 1.501(c)(3)-1(a) of the Income Tax Regulations provides that in order to be exempt as an organization described in Section 501(c)(3), the organization must be one that is both organized and operated exclusively for one or more of the purposes specified in that section. If an organization fails to meet either organizational or the operational test it is not exempt.

Section 1.501(c)(3)-1(e)(1) of the Income Tax Regulations provides that "an organization will be regarded as 'operated exclusively' for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in Section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose."

-7-

████████████████████

We wish to direct your attention to Revenue Procedure 84-46, 1984-1 C.B. 541, which reads, in part as follows:

Section 5. Exempt status will be recognized in advance of operations if proposed activities can be described in sufficient detail to permit a conclusion that the organization will clearly meet the particular requirements of the section under which exemption is claimed. A mere restatement of purposes or a statement that proposed activities will be in furtherance of such purposes will not satisfy this requirement. The organization must fully describe the activities in which it expects to engage, including the standards, criteria, procedures, or other means adopted or planned or carrying out the activities; the anticipated sources of receipts; and the nature of contemplated expenditures. Where the organization cannot demonstrate to the satisfaction of the Service that its proposed activities will be exempt, a record of actual operations may be required before a ruling or determination letter will be issued. In those cases where an organization is unable to describe fully its purposes and activities, a refusal to issue a ruling, or determination letter will be considered an adverse determination from which administrative appeal rights will be afforded..."

Since your organization has been unable to provide a concrete, detailed description of your proposed activities, this office is unable to make a determination as to your qualifications as an organization described in Section 501(c)(3) of the Internal Revenue Code. Under the authority of the above mentioned revenue procedure, it is held that a record of actual operations will be required before a ruling or determination will be issued.

Accordingly, we have concluded that you are not entitled to recognition of exemption from Federal Income Tax under Section 501(c)(3) of the Code, since you are not organized and operated exclusively for charitable, religious, or other exempt purposes within the meaning of Section 501(c)(3).

You are required to file Federal Income Tax Returns.

Contributions made to you are not deductible by the donors as charitable contributions as defined in Section 170(c) of the Code.



[REDACTED]

If you do not agree with these conclusions, you may within thirty days from the date of this letter, file a brief of the facts, law and arguments (in duplicate) which clearly sets forth your position. In the event you desire an oral discussion of the issues, you should so indicate in your submission. A conference will be arranged in the Regional Office after you have submitted your brief to the Chicago District Office and we have had an opportunity to consider the brief and it appears that the conclusions reached are still unfavorable to you. Any submission must be signed by one of your principal officers. If the matter is to be handled by a representative, the Conference and Practice Requirements regarding the filing of a power of attorney and evidence of enrollment to practice must be met. We have enclosed Publication 892, Exempt Organization Appeal Procedures for Adverse Determinations, which explains in detail your rights and procedures.

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service".

Please keep this determination letter in your permanent records.

If you agree with this determination, please sign and return the enclosed Form 6018.

If we do not hear from you within 30 days from the date of this letter, this determination will become final. In accordance with Code Section 6104(c), we will notify the appropriate State officials of this action.

Sincerely yours,

[REDACTED]  
District Director

Enclosures:  
Publication 892  
Form 6018